IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 29TH MAY 2007 / 8TH JYAISHTA 1929

Crl.MC.No. 1528 of 2007()

ST.2339/2004 of JUDL. MAGISTRATE OF FIRST CLASS COURT, THALASSERY

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PETITIONER: ACCUSED

K.K.IQBAL, S/O.UMMERKUTTY,
THAMANNA, NEAR PANCHAYATH OFFICE,
AZHIYOOR, KANNUR DISTRICT, REPRESENTED BY HIS
POWER OF ATTORNEY HOLDER K.K. MANZOOR,
S/O.LATE A.T.UMMER KUTTY, "ARAFATH MANZIL",
P.O.PUZHUPPILANGAD, CANNANORE DISTRICT.

BY ADV. SRI.T.M.ABDUL LATHEEF

RESPONDENTS: COMPLAINANT & STATE

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1. J.M.MOHAMMED ALI, S/O.MUSTHAFA,
KHADEEJAS, THAZHECHOVVA, KANNUR-18,
THROUGH HIS POWER OF ATTORNEY HOLDER
P.ABDUL RAOOF, S/O.K.ABDUL RAHIMAN HAJI,
HAJGHAR, P.O.IRIKKUR, KANNUR DISTRICT.

2. STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.C.K.SURESH

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 29/05/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.No.1528 of 2007

Dated this the 29th day of May 2007

O R D E R

The petitioner faces indictment in a prosecution under Section 138 of the Negotiable Instruments Act. According to him, the prosecution is not maintainable in as much as the cheque has been materially altered. That certainly is a contention which is available to the petitioner which he must raise in the course of his trial and seek appropriate orders. I find absolutely no justification in the prayer before this court to accept the said contention now without and before the parties are given an opportunity to substantiate their respective contentions before the learned Magistrate.

2. This Criminal Miscellaneous Case is, in these circumstances, dismissed but with liberty to the petitioner to raise all necessary and relevant contentions before the learned Magistrate in the course of the trial.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007